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Attorneys for Defendant, Kirby Westheimer

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Case No. 12-cv-07080-JAP-LHG

BANK OF AMERICA, N.A., successor
in interest to MERRILL LYNCH
CREDIT CORPORATION, by and
through its servicer and attorney-in-fact
PHH MORTGAGE CORPORATION,

Plaintiff,

vs.

KIRBY WESTHEIMER,

Defendant.

Document Filed Electronically

**NOTICE OF MOTION
TO REOPEN ORDER GRANTING
SUMMARY JUDGMENT AND
DISMISSING COUNTERCLAIMS**

Return Date: September 8, 2015

TO: Jonathan P. Vuotto, Esq.
RIKER, DANZIG, SCHERER, HYLAND & PERRETTI, LLP
Headquarters Plaza
One Speedwell Avenue
Morristown, NJ 07962-1981
Attorneys for Plaintiff, Bank of America, N.A.

PLEASE TAKE NOTICE, that on September 8, 2015, at 9:00 a.m. or as
soon thereafter as counsel may be heard, the undersigned attorneys for Defendant,

Kirby Westheimer, shall move before a District Court Judge at the United States Courthouse in Trenton, New Jersey for an Order pursuant to Fed. R. Civ. P. 60(b)(2) for relief from the February 28, 2014 Order entered by the Hon. Joel A. Pisano, U.S.D.J. granting Plaintiff's Motion to Dismiss Defendant's Counterclaims and its Motion for Summary Judgment on the basis of newly discovered evidence.

PLEASE TAKE FURTHER NOTICE that in support of this Motion, Plaintiff shall rely upon the Letter Brief, Declaration of Counsel and Declaration of Kirby Westheimer filed and served simultaneously herewith.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is being submitted herewith.

LUM, DRASCO & POSITAN LLC
Attorneys for Defendant, Kirby
Westheimer

By: /s/ Paul A. Sandars, III
PAUL A. SANDARS, III

DATED: August 14, 2015

CERTIFICATION OF SERVICE

The undersigned hereby certifies and declares that a copy of the foregoing Notice of Motion and supporting papers was served upon counsel of record listed below via service pursuant to the Court's CM/ECF system on this 14th day of August, 2015:

Jonathan P. Vuotto, Esq.
RIKER, DANZIG, SCHERER, HYLAND & PERRETTI, LLP
Headquarters Plaza
One Speedwell Avenue
Morristown, NJ 07962-1981

/s/ Paul A. Sandars, III
PAUL A. SANDARS, III